

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:19-cv-00128-MR**

CHRISTOPHER D. ELLERBE,

Plaintiff,

v.

**JOHN A HERRING, KEVIN INGRAM,
KEITH LAMBERT, FNU PRESTON,
FNU RUE, and FNU SELLERS**

Defendants.

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ORDER

This matter is before the undersigned on Defendants' Motion to Excuse Defendants' Attendance at Settlement Conference (the "Motion," Doc. 56).

A telephonic settlement conference is set for Thursday, August 12, 2021 beginning at 1:00 p.m. The Court's Order of July 2, 2021 provided instructions regarding the parties' participation in that conference. Doc. 55.

By their Motion, Defendants John A. Herring, Kevin Ingram, Keith Lambert, FNU Preston, FNU Rue, and FNU Sellers ("Defendants") request that they be excused from personally attending the August 12, 2021 conference. Doc. 56 at 1-2. Defendants contend that this request is justified because the North Carolina Department of Public Safety ("NCDPS"), as Defendants' employer, is responsible "for the first one hundred fifty thousand dollars (\$150,000.00) of liability" and because representatives of NCDPS "will

attend the scheduled settlement conference and will have the ability to negotiate and enter into any binding settlement agreement on behalf of Defendants.” Id. at 1-2. See N.C.G.S. §143-300.6(a) (“The unit of State government that employed the employee shall pay the first one hundred fifty thousand dollars (\$150,000) of liability”).

With respect to Defendants’ participation, while defense counsel and the NCDPS representatives may have authority to negotiate and enter a binding settlement on behalf of Defendants, as parties to the case Defendants themselves have a vested interest in the matter and the undersigned otherwise believes Defendants’ personal participation in the conference may be beneficial. In order to ensure that such participation is not unduly burdensome, the undersigned previously advised that Defendants and their counsel may participate in the settlement conference from different physical locations if they so choose, as long as they are on one conference line during the conference. See Doc. 55 at 2.

IT IS THEREFORE ORDERED that the Motion to Excuse Defendants’ Attendance at Settlement Conference (Doc. 56) is **DENIED**.

Signed: July 26, 2021



W. Carleton Metcalf
United States Magistrate Judge

